

REMARKS

Favorable reconsideration of this application as presently amended is respectfully requested. Claims 1-66 are pending. In this Amendment, claims 1-4, 6, 15-21, 23-24, 26, 31-42, 44-54, and 64-66 are canceled, claims 5, 7-8, 14, 22, 25, 27, 55, and 56 are amended and no new claims are added. No new matter is added.

Claims 14, 22, 25, 27, 55 and 56 have been amended to correct dependencies as they were directed to claims that Applicant has cancelled in the above amendment. Applicant respectfully requests that these Amendments be entered into record. No new matter is added.

Claims 50-53 have been objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. This matter has been attended to by amendment and cancellation of claims.

Claims 1-4, 15-21, and 23-25 stand rejected under 35 U.S.C. 102(b) as being anticipated by Baena. Claims 1-4, 15-21, 23-25 have been cancelled.

Claim 54 stands rejected under 35 U.S.C. 102(b) as being anticipated by Kupka.
Claim 54 has been cancelled.

Claims 5-14, 22, 26-29, 43-53 and 63-66 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Baena. As to claims 43 and 63, the examiner acknowledges that Baena does not explicitly teach associating with the information representing the audio or audiovisual work the binary key produced. It is, however, the examiner's position that it would have been obvious to one having ordinary skill in the art at the time the invention was made to associate with the information representing the audio or audiovisual work the binary key produced. The examiner notes that Baena teaches associating the information representing software work with the binary key produced, referring to column 4, and lines 54-57, and column 2, lines 42-46.

It is not understood how associating the information representing software work

with the binary key produced, is suggestive of associating the audio or audiovisual work is the binary key produced. It is respectfully submitted that the broad suggestion in Baena would not lead one to the specific feature of the claims.

As to claims 5 and 22, the examiner notes that Baena does not explicitly teach performing a cyclic redundancy check on the information. It is respectfully submitted that Baena's teaching of generating a 64 bit unique binary key would not have rendered obvious to one having ordinary skill in the art at the time the invention was made, the performing of a cyclic redundancy check on the information in order to convert it to binary key. A cyclic redundancy check is not an obvious variation on Baena's teachings.

As per claim 6, the examiner notes that Baena teaches the process, wherein the identifier comprises a binary key of at least 64 bits in length (column 4, lines 27]. Claim 6 has been cancelled.

As to claims 7-14, the examiner notes that Baena does not explicitly teach intentionally altering the physical structure of a device. The examiner indicates that it is well known in the art to intentionally alter physical structure of a device in order to incorporate a pre-defined arbitrary identifier. It is respectfully submitted that such a feature, in the context of claims 7-14 is not well known in the art. It is requested that the examiner either document the representation that it is well known in the art to intentionally alter physical structure of a device in order to incorporate a pre-defined arbitrary identifier, or, alternatively, provide an affidavit as required in the rules.

As to claims 44 and 45, it is the examiner's position that Baena teaches the process as applied above. Claims 44 and 45 have been cancelled.

As to claims 46-49, it is the examiner's position that Baena teaches the process as applied above and that Baena teaches producing a binary key using attributes of a device and associating the key with the information distributing medium or the information. Claims 46-49 have been cancelled.

As to claims 50-53, it is the examiner's position that Baena teaches the process as applied to claim 43 above. Claims 50-53 have been cancelled.

As to claim 64, it is the examiner's position that Baena teaches the process as applied above. Claim 64 has been cancelled.

As to claims 65 and 66, it is the examiner's position that Baena teaches the process as applied above and teaches the process, wherein the unique keys specific to the device. Claims 65 and 66 have been cancelled.

Claims 55-62 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kupka (POT WO 99/55055). The examiner states that Kupka teaches the process as applied to claim 54 above and that Kupka teaches defining a unique identifier for the information to be secured and incorporating a unique physical media identifier into the physical structure of the optically readable medium. The examiner notes, however, that Kupka does not explicitly teach physically altering a portion of the optical medium. It is the examiner's position that it is well known in the art to intentionally alter physical structure of a device in order to incorporate a pre-defined arbitrary identifier.

It is respectfully submitted that such a feature, in the context of claims 55-62 is not well known in the art. It is requested that the examiner either document the representation that it is well known in the art to intentionally alter physical structure of a device in order to incorporate a pre-defined arbitrary identifier, or, alternatively, provide an affidavit as required in the rules.

Claims 30-42 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Baena in view of Kupka et al. As per claim 30, the examiner notes that Baena does not explicitly teach installing software from a server on to a computer using a network. The examiner indicates, that Kupka teaches installing software from a server onto a device using a network. The examiner concludes that it would have been obvious to one having ordinary skill in the art at the time the invention was made to install software from a server onto a device using a network as per teachings of Kupka into the software installation system taught by Baena in order to have a faster and wider distribution means. It is respectfully submitted that the law is clear that the basis for the combination of references must come from the references and not the application that is being rejected. There is no teaching or suggestion found in either patent to provide a motivation to make such a combination of features as defined in the claim.

Since claim 31-42, have been cancelled the issues raised by the examiner in regard to these claims are mute.

If the Examiner has any questions or concerns regarding the present response, the Examiner is invited to contact Sheldon H. Parker at (703) 563 2041.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance, and favorable action is respectfully solicited.

Respectfully submitted,



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